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7 8	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
	SAM DONAGHE,	
9	Plaintiff,	CASE NO. 3:16-cv-5973-RJB-JRC
10	v.	REPORT AND RECOMMENDATION
11		ON PLAINTIFF'S MOTION TO DISMISS
12	PATRISHA LASHAWAY, et al.,	NOTED FOR: February 27, 2018
13	Defendants.	
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15	Before the Court is plaintiff's Motion to Dismiss Complaint. Dkt. 58. Defendants	
16	"stipulate to the dismissal of this action." Dkt. 59 (citing Fed. R. Civ. P. 41(a)(1)(A)(ii)).	
17	The undersigned recommends that the Court grant the motion (Dkt. 58) and dismiss the	
18	amended complaint (Dkt. 42) without prejudice.	
19	BACKGROUND	
20	On November 1, 2017, defendants filed their answer. Dkt. 53. On February 14,	
21	2018, plaintiff filed a Motion to Dismiss as he is to be released and "will no longer be	
22	subjected to the civil conditions of confinement at the SCC facility." Dkt. 58, p. 2.	
23 24	Defendants "stipulate to the dismissal of th	is action." Dkt. 59 (citing Rule 41(a)(1)(A)).
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1 **DISCUSSION** 2 Rule 41 of the Federal Rules of Civil Procedure sets forth the circumstances under 3 which an action may be dismissed. Under Rule 41(a)(1)(A), an action may be dismissed 4 by the plaintiff without order of the court "by filing a stipulation of dismissal signed by 5 all parties who have appeared in the action." Fed. R. Civ. P. 41(a)(1)(A)(ii). Plaintiff has 6 filed a motion to dismiss (Dkt. 58), and defendants "stipulate to the dismissal of this 7 action." Dkt. 59 (citing Fed. R. Civ. P. 41(a)(1)(A)(ii)). 8 Rule 41(a)(2) provides, in part, that: "[e]xcept as provided in Rule 41(a)(1), an 9 action may be dismissed at the plaintiff's request only by court order, on terms that the 10 court considers proper." Fed. R. Civ. P. 41(a)(2). 11 **CONCLUSION** 12 Given the facts and the parties' stipulation, the Court recommends that the District 13 14 Judge immediately approve this Report and Recommendation, grant plaintiff's Motion to 15 Dismiss (Dkt. 58), and issue an Order dismissing this action (Amended Complaint, Dkt. 16 42) without prejudice. 17 Dated this 27th day of February, 2018. 18 19 J. Richard Creatura 20 United States Magistrate Judge 21 22 23 24